

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DANIEL PAGE,

v.

Petitioner,

NEVADA ATTORNEY GENERAL, *et al.*,

Respondents.

Case No. 3:16-cv-00600-MMD-WGC

ORDER

This case is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Daniel Page, a Nevada prisoner. Page filed his habeas corpus petition, along with an application to proceed *in forma pauperis*, and a motion for appointment of counsel, on October 17, 2016. (ECF No. 1.) On October 25, 2016, the Court denied Page's application to proceed *in forma pauperis*, and ordered him to pay the filing fee for this action. (See Order entered October 25, 2016 (ECF No. 3.) Page paid the filing fee on November 17, 2016. (ECF No. 4.)

The Court has reviewed Page's habeas petition, pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and determines that it merits service upon the respondents. Respondents will not be required to respond to the petition at this time, however, as the Court anticipates that, with counsel, Page will likely file an amended petition.

The Court will grant Page's motion for appointment of counsel. "Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless

1 the circumstances of a particular case indicate that appointed counsel is necessary to
2 prevent due process violations." *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986)
3 (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may,
4 however, appoint counsel at any stage of the proceedings "if the interests of justice so
5 require." See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases;
6 *Chaney*, 801 F.2d at 1196. In his motion for appointment of counsel, Page states that he
7 has over the last three years, suffered two strokes and a heart attack, and that the strokes
8 have affected his memory; Page also states that, apparently as a result of a transfer
9 related to one of the medical events, he lost most of his records related to his criminal
10 case. Under these circumstances, and taking into consideration the length of Page's
11 prison sentence (two consecutive sentences of ten years to life in prison), the Court finds
12 that appointment of counsel is in the interests of justice.

13 It is therefore ordered that the Clerk of the Court separately file the petition for writ
14 of habeas corpus, and the motion for appointment of counsel, both of which are currently
15 attached to the *in forma pauperis* application, at ECF No. 1.

16 It is further ordered that the Clerk of the Court add Adam Paul Laxalt, Attorney
17 General of the State of Nevada, as counsel for respondents.

18 It is further ordered that the Clerk of the Court electronically serve upon
19 respondents a copy of the petition for writ of habeas corpus, and a copy of this order.

20 It is further ordered that respondents will have twenty (20) days from the date on
21 which the petition is served upon them to appear in this action. Respondents will not be
22 required to respond to the habeas petition at this time.

23 It is further ordered that petitioner's Motion for Appointment of Counsel is granted.
24 The Federal Public Defender for the District of Nevada (FPD) is appointed to represent
25 petitioner. If the FPD is unable to represent the petitioner, due to a conflict of interest or
26 other reason, then alternate counsel will be appointed. In either case, counsel will
27 represent the petitioner in all federal-court proceedings relating to this matter, unless
28 allowed to withdraw.

1 It is further ordered that the Clerk of the Court electronically serve upon the FPD a
2 copy of this order, together with a copy of the petition for writ of habeas corpus.

3 It is further ordered that the FPD will have twenty (20) days from the date of entry
4 of this order to file a notice of appearance, or to indicate to the Court its inability to
5 represent the petitioner in this case.

6 It is further ordered that the Court will establish a schedule for further proceedings
7 in this case after counsel appear for the petitioner and the respondents.

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9 DATED THIS 30th day of November 2016.
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12 MIRANDA M. DU
13 UNITED STATES DISTRICT JUDGE
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